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LABOUR & E.S.I. DEPARTMENT

NOTIFICATION

The 30th June 2025

S.R.O. No. 467/2025—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 19th April 2025 in the ID Case No. 31 of 2024 passed by the Presiding Officer, Labour Court, Bhubaneswar on the industrial dispute between the management of M/s R Mc Dill & Co. Pvt. Ltd. (Petrol Pump), Jajpur Road, Jajpur-755019, the Director, M/s R Mc Dill & Co. Pvt. Ltd., At Mineral House, 27-A Cumac Street, Kolkata-700016 and Shri Mahendra Ku. Mahapatra, S/o Late Upendra Mahapatra, At Sahaspur, P.O. Tulasipur, P.S. Korei, Dist. Jajpur is hereby published as in the schedule below :—

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE NO. 31 of 2024

Dated the 19th April 2025

Present :

Smt. Meenakshee Priyadrasinee,
Presiding Officer,
Labour Court, Bhubaneswar.

Between :

1. M/s R Mc Dill & Co. Pvt. Ltd. (Petrol Pump) . . First Party—Managements
Jajpur Road, Jajpur-755019.
2. The Director,
M/s R Mc Dill & Co. Pvt. Ltd.,
At. Mineral House, 27-A Cumac Street,
Kolkata-700016.

And

Shri Mahendra Ku. Mahapatra, . . Second Party—Workman
S/o Late Upendra Mahapatra,
At Sahaspur, P.O. Tulasipur,
P.S. Korei, Dist. Jajpur.

Appearances :

None	. .	For the Managements
Shri Mahendra Ku. Mahapatra	. .	The Second Party himself

AWARD

The Government of Odisha in the Labour & E.S.I. Department in exercise of powers conferred upon it by sub-section (5) of Section 12 read with Clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (for short 'the Act') have referred the following dispute for adjudication by this Court vide their Memo. No.9188/LESI, dated the 22nd October 2024 :—

> "(1) Whether the demand for wages for the suspension period i.e., from the 6th May 2021 to the 18th May 2021 by the workman Shri Mahendra Kumar Mahapatra, Ex-Pump Operator from the management of M/s R Mc Dill & Co. Pvt. Ltd., Jajpur is legal and or justified? If not, what direction is necessary in this regard?
>
> (2) Whether action of the management of M/s R Mc Dill & Co. Pvt. Ltd., Jajpur in terminating Shri Mahendra Kumar Mahapatra, Ex-Pump Operator from service with effect from the 5th November 2021 is legal and/or justified? If not, what relief he is entitled to?"

2. In view of the direction imparted vide order of reference by the appropriate Govt. the second party filed his pleading in the form of Claim Statement wherein he stated to have appointed as Watchman/Night Guard through selection process. Subsequent to his engagement at Barajamda Office in the district of Chaibasa he was transferred to Jajpur Road Pump on the 6th October 2005. While the matter stood thus a letter came to be issued to him asking for show cause within 48 hours of receipt of the letter for committing. His alleged misbehaviour to the manager. The second party submitted his reply on the following day of issuance of the same to the Director of the management-company. But, he was told that if he will admit the charges levelled against him by submitting an undertaking to that effect his suspension order will be revoked. The second party accordingly submitted an undertaking on the 14th May 2021 by acceding such proposal. Though vide order, dated the 18th May 2021 he was allowed to join in duty, but due to his ill luck his period of suspension was treated as leave without pay. In consequence, the second party raised an industrial dispute before the D.L.O., Jajpur requesting his intervention in the matter. The concerned D.L.O., thereafter issued notice to the management for discussion, but the management instead of attending the enquiry terminated the service of the second party on receipt of the notice from the concerned D.L.O. According to the second party, his termination from service being contrary to the provisions of the ID Act, he again approached the D.L.O. vide his letter ,dated the 6th November 2021 which culminated into the present case. In the Statement of Claim of the second party prayer has been sought for his reinstatement in service with all consequential service benefits so also subsistence allowance for his suspension period.

3. By order, dated the 18th March 2025 the managements were set *ex parte* as they did not opt to file their respective WS so also to appear during hearing of the case despite issuance of notices to them by this Court.

4. In order to substantiate his plea, the second party has examined himself as W.W. No. 1 and exhibited certain documents which are marked as Exts. 1 to 6.

5. The applicant AW No.1 in his evidence affidavit categorically deposed that in terms of his appointment letter, dated the 17th May 2001 he was initially posted at Barajamda Office of the managements as Watchman/Night Guard and continued there till the 5th October 2005 when he was transferred to their Jajpur Road Office. To fortify such contention, the second party placed reliance on Ext. 2 and Ext. 3. Ext.2, the copy of his appointment letter, dated the 17th May 2001, reveals that referring to his application an interview was held following which he was appointed as Watchman/Night Guard by the Director of the managements-company with a monthly salary of Rs.1,200. Similarly by virtue of Ext. 3, the second party got transferred from Barajamda Office to Jajpur Road. The aforesaid evidence thus reveals that there exists employer-employee relationship between the parties.

In the present case, the letter ,dated the 5th November 2021 (Ext. 4) by which the service of the second party has been terminated from service is under challenge. In the context, the second party clarified that his termination from service has been effected by the concerned authority of the managements without following the provisions of the ID Act, for which the same is neither legal nor justified. A bare perusal of Ext. 4 would show that the second party has been terminated from his service with effect from the 5th November 2021. On a conjoint reading of Exts. 2 and 4, it is found that the second party joined under the managements/company on the 1st June 2001 and got terminated from service on the 5th November 2021. This shows the second party has rendered service to the managements-company for more than 20 years. The second party was accordingly entitled to the protection of Section 25-F of the Act. But, no evidence either oral or documentary is available on the case record to show that while terminating the second party from service the managements have followed the provisions of ID Act. So, it is deemed that the second party was terminated from his service without following due procedure of law.

It is to be restated here that the managements while putting the service of the second party to an end has brought some allegations against him, for which he was also called for explanation. In the context, it is worthy to place reliance on the recent judgment of the Hon'ble Bombay High Court in the Case of Shri Vishwanath Bhivaji Kudale *V.* The Chairman, Maharashtra State Electricity Board and Others wherein it has been held as follows:

"An employer cannot be granted unbridled power of punishing an employee without holding any enquiry especially in respect of the major penalties of dismissal or removal from service.

A full-fledged enquiry into the misconduct is warranted in a case where the misconduct is not admitted by an employee and the burden is on the employer to prove the allegations".

Further the Hon'ble High Court of Punjab & Haryana in the case of Modella Woollens Ltd. *Vrs*. PO, Labour Court reported in LLR-1993-876 has been held that "No termination is permissible on the ground of misconduct unless proper inquiry is held according to principles of natural justice".

But, no document is brought to the notice of the Court which could have highlighted that the second party has been terminated from his service preceded by any domestic enquiry.

In the light of the above, the termination order of the second party is held to be illegal/bad being passed without following the provisions of ID Act and contrary to the settled principle of law.

As per the schedule of reference, another question (i.e., whether the demand for wages for the suspension period i.e., the 6th May 2021 to the 18th May 2021 by the workman is legal and/or justified) is also posed for consideration. As revealed from Ext. 4 the second party was placed under suspension for certain period. In this connection, a claim has been advanced by the second party that for the period from the 6th May 2021 to the 18th May 2021, he was not paid his subsistence allowance. Needless to say that the second party himself in his Statement of Claim pleaded that while revoking his suspension order the management has treated his suspension period as leave without pay. So, on such count, the second party is not entitled to any amount towards subsistence allowance.

Now the question arises as to what benefits the second party is entitled to. Normally, once, an order of termination is set aside, an employee becomes entitled for all the benefits, which he would have enjoyed while in service, from the date of his termination till the date of his reinstatement in service or up to the date of superannuation in case he was not reinstated in service. But, in the present case, certain facts have come on record that prior to his termination the second party was placed under suspension for certain period and he was terminated from his service following certain allegations although such allegations were not proved against him. Taking the aforesaid fact into consideration, the relief of reinstatement and back wages, in my considered view, would not be appropriate to be awarded in favour of the second party and instead some compensation would be the just and proper relief in the present proceeding. So, ongoing through the status of the second party, his engagement period and his age the management is directed to pay a lump sum compensation of Rs. 5,00,000 (Rupees five lakhs) only to the second party within a period of two months of the date of publication of the award, failing which the amount of compensation awarded in favour of the second party would carry a simple interest of 6% per annum till it is paid to him.

Dictated and corrected by me.

MEENAKSHEE PRIYADRASINEE
19-04-2025
Presiding Officer
Labour Court, Bhubaneswar

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19-04-2025
Presiding Officer
Labour Court, Bhubaneswar

[No. 5855—LESI-IR-ID-0019/2023-LESI.]
By order of the Governor
MADHUMITA NAYAK
Special Secretary to Government

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